

RECORDATION NO. \_\_\_\_\_ Filed & Recd.

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INTERSTATE COMMERCE COMMISSION

C H A T T E L     M O R T G A G E

(SECURITY AGREEMENT)

Dated as of February 16, 1971

Between

BAY DEVELOPMENT COMPANY

and

MICHIGAN NATIONAL BANK

Covering fifty-one 50 foot Double Door Box Cars

COUNTERPART NO. 7

# CHattel Mortgage

## (SECURITY AGREEMENT)

THIS INDENTURE made this 16th day of February, 1971, by and between BAY DEVELOPMENT COMPANY, a Michigan corporation having its principal office at 120 Oak Street, Tawas City, Iosco County, Michigan, hereinafter called "Mortgagor" and MICHIGAN NATIONAL BANK, a national banking association with offices at 501 Lapeer Street, City of Saginaw, Saginaw County, Michigan, hereinafter called "Mortgagee,"

### WITNESSETH:

That said Mortgagor, being justly indebted to Mortgagee in the sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 (\$250,000.00) DOLLARS according to the terms of a certain promissory note of this date executed by Mortgagor, and for the purpose of securing repayment of said sum represented by said note and any and all extensions and/or renewal or renewals thereof, together with interest that shall from time to time remain unpaid thereon, does hereby grant a security interest in and bargain, sell and mortgage to Mortgagee all the following described property together with the proceeds thereof and all accessories, parts and equipment now or hereafter affixed thereto and also any and all replacements thereof (all herein called the "Collateral"):

Fifty-one (51) XM type 50 foot double door box cars bearing numbers D & M 3200 through 3250 inclusive.

To have and to hold the same forever, provided always and these presents are made upon this express condition, that if Mortgagor shall pay or cause to be paid to Mortgagee said sum

with interest thereon, according to the terms of the aforementioned promissory note, then this indenture and the said promissory note shall be null and void.

Mortgagor covenants and agrees that it is lawfully possessed of the above described property and holds the complete legal title thereto free from all liens and encumbrances except this mortgage, and Mortgagor will warrant and defend the same to Mortgagee against the claims and demands of all persons.

Mortgagor covenants and agrees that it will not sell or assign said property or any interest therein without the written consent of Mortgagee.

Mortgagor covenants and agrees that it will preserve and maintain the Collateral and every part thereof in thorough and first-class repair, working order and condition, and will, from time to time, make all necessary and proper repairs so that the efficiency of said property and every part thereof shall be maintained to its greatest extent and the security not in anywise impaired.

Mortgagor further covenants and agrees that it will pay all taxes and assessments levied against said property.

Mortgagor further covenants and agrees that in the event it shall fail to pay said taxes, Mortgagee may pay such taxes, and the sum or sums so paid shall be added to the obligation hereby secured, be due at once and bear interest until paid at the rate of twelve (12%) per cent per annum, and until so paid shall be a further lien upon said property.

Mortgagor further covenants and agrees that it will pay or cause to be paid to Mortgagee the indebtedness hereby

Mortgagor covenants and agrees that Mortgagee may hold and apply, at any time, its own indebtedness or liability to Mortgagor as security for or in payment of any indebtedness due or to become due from Mortgagor.

Mortgagor further covenants and agrees that it will not permit any liens or security interests (other than those held by Mortgagee to attach to any of the Collateral.

It is further agreed between the parties hereto that upon default of any of the terms and conditions hereof, Mortgagee may, at its option, without demand or notice of any kind, declare all indebtedness hereby secured to be due and payable forthwith; and the Mortgagee shall have all the rights of a Secured Party under the Uniform Commercial Code or other applicable law and all rights provided herein, all of which rights and remedies shall, to the full extent permitted by law, be cumulative. Mortgagee may require Mortgagor to assemble the Collateral and make it available to the Mortgagee at a place or places to be designated by the Mortgagee which are reasonably convenient to Mortgagor and Mortgagee. Any notice of sale, disposition, or other intended action by Mortgagee sent to Mortgagor at its address specified above at least five (5) days prior to such action shall constitute reasonable notice to Mortgagor. Expenses of retaking, holding, preparing for sale, selling or the like shall include Mortgagor's reasonable attorney fees and legal expenses. The waiver of any default hereunder shall not be a waiver of any subsequent default.

It is further agreed that this indenture and all rights and obligations hereunder shall be governed by the laws of the

entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

This indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same indenture, which shall be sufficiently evidenced by any such original counterpart.

Delivered and accepted as of the day and year first above written.

BAY DEVELOPMENT COMPANY

By Helen E. Johnson  
Its President

MICHIGAN NATIONAL BANK

By Joyce E. Passon  
Its Notary Public

STATE OF MICHIGAN )  
COUNTY OF Saginaw ) SS

On this 1 day of March, 1971, before me, personally appeared Helen E. Johnson, to me personally known, who, being by me duly sworn, says that she is President of BAY DEVELOPMENT COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

JOYCE E. PASSON  
Notary Public, Saginaw County, Michigan  
My commission expires Sept. 19, 1972

Joyce E. Passon  
Notary Public  
Saginaw County, Michigan  
My Commission Expires: Sept 19, 1972

STATE OF MICHIGAN )  
SS  
COUNTY OF SAGINAW )

On this 15<sup>th</sup> day of March, 1971, before me, personally appeared JERRY J. DELAY, to me personally known, who being by me duly sworn, says that he is ASST. VICE PRESIDENT of MICHIGAN NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

**JOYCE E. PASSON**  
Notary Public, Saginaw County, Michigan  
My commission expires Sept. 18, 1972

Joyce E. Passon  
Notary Public  
Saginaw County, Michigan  
My Commission Expires: Sept 19, 1972